

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

No. 2:15-MD-02641-DGC

This Document Relates to Plaintiff:
Estate of Karen Smith
2:19-cv-00262-DGC

**SECOND AMENDED MASTER
SHORT FORM COMPLAINT FOR
DAMAGES FOR INDIVIDUAL
CLAIMS AND DEMAND FOR JURY
TRIAL**

PLAINTIFF'S FIRST AMENDED SHORT FORM COMPLAINT

Plaintiff(s) named below, for their Complaint against Defendants named below,
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).
Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:
Karen Smith.
2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
consortium claim:
N/A.
3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
conservator):
Emmett Smith - Independent Administrator.
4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence
at the time of implant:
Texas.

1 5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence
2 at the time of injury:

3 Texas.

4 6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

5 Texas.

6 7. District Court and Division in which venue would be proper absent direct
7 filing:

8 Southern District of Texas - Houston Division.

9 8. Defendants (check Defendants against whom Complaint is made):



C. R. Bard Inc.



Bard Peripheral Vascular, Inc.

12 9. Basis of Jurisdiction:



Diversity of Citizenship



Other: _____

15 a. Other allegations of jurisdiction and venue not expressed in Master
16 Complaint:

17 _____
18 _____
19 _____

20 10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making
21 a claim (Check applicable Inferior Vena Cava Filter(s)):



Recovery[®] Vena Cava Filter



G2[®] Vena Cava Filter



G2[®] Express Vena Cava Filter



G2[®] X Vena Cava Filter



Eclipse[®] Vena Cava Filter



Meridian[®] Vena Cava Filter

☐ Denali® Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

August 15, 2013.

12. Counts in the Master Complaint brought by Plaintiff(s):

- ☒ Count I: Strict Products Liability – Manufacturing Defect
- ☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)
- ☒ Count III: Strict Products Liability – Design Defect
- ☒ Count IV: Negligence - Design
- ☒ Count V: Negligence - Manufacture
- ☒ Count VI: Negligence – Failure to Recall/Retrofit
- ☒ Count VII: Negligence – Failure to Warn
- ☒ Count VIII: Negligent Misrepresentation
- ☒ Count IX: Negligence *Per Se*
- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of Implied Warranty
- ☒ Count XII: Fraudulent Misrepresentation
- ☒ Count XIII: Fraudulent Concealment
- ☒ Count XIV: Violations of Applicable Texas (insert state) Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices
- ☐ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages

☐ Other(s): _____ (please state the facts supporting this Count in the space immediately below)

13. Jury Trial demanded for all issues so triable?

☒ Yes

☐ No

RESPECTFULLY SUBMITTED this 3 day of September, 2019.

[SIGNATURE BLOCK]

By: /s/ Robert J. Fenstersheib

[Attorney name/address]

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Hallandale, FL 33009

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I hereby certify that on this 3 day of September, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Robert J. Fenstersheib